

The Atchison Topeka And Santa Fe

Between San Francisco and Chicago
Via Albuquerque, and Kansas City.

Snead Comfort and Elegance
Pullman and Dining Service Unsurpassed.

Passing through the Grandest Scenery of the West
F. W. Prince, Agent. 641 Market St. San Francisco Cal

Sacramento Saloon

ANDY TODD, Prop.

The best of liquid refreshments always on tap, including imported
and domestic goods.

Good Cigars are a part of our stock.

You never make a mistake at the old corner.

The Eagle Market

Our Meats are the best, if you are not
satisfied with the place you are trading
call on us. Our motto is "The Best."
A pleased patron means a steady customer

The Eagle Market

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE OF NEVADA, In and for the County of Ormsby.

Marion W. Bulkley, Plaintiff
vs.
Joseph W. Bulkley, Defendant

Action brought in the District Court of the First Judicial District of the State of Nevada, Ormsby County, and the complaint filed in the said county, in the office of the Clerk of said District Court on the 2d day of December, A. D. 1905.

THE STATE OF NEVADA SENDS
GREETING TO
JOSEPH W. BULKLEY
Defendant.

You are hereby required to appear in an action brought against you by the above named Plaintiff, in the District Court of the first Judicial District of the State of Nevada, Ormsby County, and answer complaint filed therein within ten days (exclusive of the day of service) after the service on you of this Summons is served in said county, or if served out of said County, but within the District, twenty days, in all other cases forty days, or judgment by default will be taken against you according to the prayer of said complaint.

The said action is brought to obtain the judgment and decree of this court that the bonds of matrimony heretofore and now existing and uniting you and said plaintiff to be forever annulled and dissolved upon the ground that at divers times and places since said marriage you have committed adultery with one Kate Cottrell, and particularly that from about the 8th day of June 1900 to and including the 13th day of June, 1900, at the Charing Cross Hotel in the city of London, England, you lived and cohabited with said Kate Cottrell.

All of which more fully appears by complaint as filed herein to which you are hereby referred.

And you are hereby notified that if you fail to answer the Complaint, the said Plaintiff will apply to the Court for the relief herein demanded.

GIVEN under my hand and Seal of the District Court of the First Judicial District of the State of Nevada, Ormsby County, this 2d day of December, in the year of our Lord one thousand nine hundred and Five.

H. B. VAN ETEN, Clerk.

Geo. W. Keitt,

Attorney for Plaintiff.

Notice of Application for Permission to Appropriate the Public Waters of the State of Nevada.

Notice is hereby given that on the 12th day of Sept., 1905, in accordance with Section 23, Chapter XLVI, of the Statutes of 1905, one Philip V. Mighels and Frank L. Wildes of Carson, County of Ormsby and State of Nevada, made application to the State Engineer of Nevada for permission to appropriate the public waters of the State of Nevada. Such application to be made from Ash Canyon creek at points in N E 1/4 of S W 1/4 of section 10 T 15 N R 19 E by means of a dam and headgate and five cubic feet per second is to be conveyed to points in N E 1/4 of S W 1/4 of section 11, T 15 N R 19 E, by means of a flume and pipe and there used to generate electrical power. The construction of said works shall begin before June 1, 1906, and shall be completed on or before June 1, 1907. The water shall be actually applied to a beneficial use on or before June 1, 1908.

Signed:
HENRY THURTELL,
State Engineer.

SCHOOL APPOINTMENT. STATE OF NEVADA.

Department of Education,
Office of Superintendent of Public Instruction.

Carson City, Nevada, July 11, 1905
To the School Officers of Nevada:

Following is a statement of the second semi-annual apportionment of School Monies for 1905, on the basis of \$6,999,202 per census child:

Counties	children	Am't.
Churchill	135	\$ 943 68
Douglas	317	2,215 99
Elko	1,129	7,829 62
Esmeralda	217	1,516 87
Eureka	389	2,719 20
Humboldt	741	
Lander	326	
Lincoln	762	
Lyon	480	
Nye	452	
Ormsby	69	
Storey	933	
Washoe	2,412	16,860 36
White Pine	525	3,669 83
Total	9,430	\$65,917 61

Joe Platt has received samples of tailor made suits which are, without doubt the finest ever shown in this city. A number of suits have already been made and they are perfect fits in every case. Get your measure taken and do it before the best samples are gone. He guarantees a fit or no pay.

THE SUPREME COURT OF THE STATE OF NEVADA.

Appealed From the Fourth Judicial District Court, Elko County, Nevada.

The State of Nevada,
Plaintiff and Respondent,
against
Paul Lovelace,
Defendant and Appellant.

Attorney General James G. Sweeney,
Attorney for State.
Wm. Woodburn, Attorney for Appellant.

Defendant appeals from a judgment rendered against him in the District Court in and for Elko county for the crime of burglary; and he assigns two reasons why, as he claims, judgment should be reversed.

First, the insufficiency of the indictment on which the judgment was based; and

Second, the absence of corroboration of the testimony of an accomplice who testified against the defendant.

Under the first head the point made is on the proper interpretation of the following clause in the indictment: "The said Paul Lovelace on the 11th day of May, 1904, in the night time of said day, or thereabouts, in the County of Elko, State of Nevada, without authority of the law and before the finding of this indictment, did willfully, unlawfully and burglariously break and enter the building of one Alexander Burrell."

Counsel for defendant in his brief, clearly mistaken. Besides minor points of corroboration, not necessary to be mentioned here, the testimony of the witness W. J. Davidson corroborates the testimony of the accomplice Ross. Davidson testifies that the defendant requested him (Davidson) "to help him rob the store at Edgemont"; that is the store that was robbed. Davidson further testifies that the defendant "told him he would have got the amalgam if something had not happened"—the amalgam was the article stolen in the robbery. Davidson further testifies that the defendant was trying to dispose of the amalgam, the thing stolen; and asked Davidson this question: "What am I going to do about that damned stuff?"

In this contention Counsel is, we think, clearly mistaken. Besides minor points of corroboration, not necessary to be mentioned here, the testimony of the witness W. J. Davidson corroborates the testimony of the accomplice Ross. Davidson testifies that the defendant requested him (Davidson) "to help him rob the store at Edgemont"; that is the store that was robbed. Davidson further testifies that the defendant "told him he would have got the amalgam if something had not happened"—the amalgam was the article stolen in the robbery. Davidson further testifies that the defendant was trying to dispose of the amalgam, the thing stolen; and asked Davidson this question: "What am I going to do about that damned stuff?"

The question is not whether the indictment would be good "at common law"; it is whether it is good under the statute of Nevada that governs the subject. The subject is governed by the sections following concerning indictments:

Section 4199, Compiled Laws, 1900, provides that the indictment shall contain "a statement of the acts constituting the offense, in ordinary and concise language, and in such manner as to enable a person of common understanding to know what is intended."

Section 4206, Compiled Laws, 1900, has the following: "The words used in an indictment shall be construed in the usual acceptance in common language, except such words and phrases as are defined by law, which are to be construed according to their legal meaning."

Section 4208, Compiled Laws, 1900, provides: "Sixth—That the act or omission charged as the offense is clearly and distinctly set forth in ordinary and concise language, without repetition, and in such a manner as to enable a person of common understanding to know what is intended."

Section 4209 is as follows: "No indictment shall be deemed insufficient, nor shall the trial, judgment, or the proceeding thereon, be affected, by reason of any defect or imperfection in matters of form which shall not tend to the prejudice of the defendant."

The foregoing enactments show that it was the intention of the legislature of Nevada that in construing indictments the courts should not indulge in a too exact and over-strict view of language; but that certainty to a common intent was all that should be required.

True, in the paragraph of the indictment under discussion, there is something of a departure from the best models of grammatical, rhetorical or linguistic expression. But we think the paragraph meets the requirement of the statute that "the acts constituting the offense should be charged in ordinary and concise language, and in such manner as to enable a person of common understanding to know what is intended." To hold the indictment not fatally bad is, we think, to keep within the statutory command, as expressed above in section 4206, or at least not to depart too far from such command, to wit, to construe "in the usual acceptance in common language."

We think the defect of the indictment complained of was such as in the language of Section 4209, above quoted was a "defect or imperfection in matter of form, which did not tend to the prejudice of the defendant."

The language of the indictment could doubtless be made more accurate; but we think it is not fatally defective. In brief of Counsel for defendant the following correction is offered:

"If the words 'or thereabouts' had been inserted after the words 'on the 11th day of May, 1904', the indictment could not be the subject of criticism or assault."

Perhaps the following phraseology might be considered an improvement on the phraseology of the indictment: "The said Paul Lovelace did in the night time of the 11th day of May, 1904, or in the night time of some day thereabouts the said 11th day of May, 1904, enter, etc."

Said Paul Lovelace did, in the night time, on or about the 11th day of May, 1904, enter, etc.

might perhaps be considered a little better collocation of words, although this is something of a departure from the form suggested in the statute concerning the form of indictments.

That more grammatical, punctational (if verbal "free coinage" may be allowed), rhetorical or linguistic error does not always vitiate is fully sustained by decisions of courts and text writers. The following notably excellent authority is cited to sustain this doctrine:

Cyclopedia of Law and Procedure (Cyc.) vol. 6, page 199; and authorities there mentioned.

While this indictment, in the respects mentioned is in truth inartistically drawn, yet under the statutes and the authorities above stated, we cannot say that it is fatally defective. The sections of the statute above quoted show that the legislative intent was that the courts of the State should give interpretations liberal to sustain indictments when, as in this case substantial rights of defendants are not thereby prejudiced; and as we have from the authority mentioned seen that even under the common law to overthrow this indictment would seem too rigid an interpretation.

Under the second head the error claimed is stated in the brief of Counsel for defendant as follows:

"On the trial of appellant the deposition of one Ross, taken at the preliminary examination was read in evidence, because he broke jail and escaped before the trial and his presence could not be procured."

"He testified that he and appellant entered the store of Alexander Burrell on the day named in the indictment, stole a lot of amalgam of the value of about \$200, and buried it a short distance from the scene of the crime. Appellant claims there was no testimony corroborative of that of Ross, and that a conviction could not be had."

In this contention Counsel is, we think, clearly mistaken. Besides minor points of corroboration, not necessary to be mentioned here, the testimony of the witness W. J. Davidson corroborates the testimony of the accomplice Ross. Davidson testifies that the defendant requested him (Davidson) "to help him rob the store at Edgemont"; that is the store that was robbed. Davidson further testifies that the defendant "told him he would have got the amalgam if something had not happened"—the amalgam was the article stolen in the robbery. Davidson further testifies that the defendant was trying to dispose of the amalgam, the thing stolen; and asked Davidson this question: "What am I going to do about that damned stuff?"

If this testimony was true, and its truth was a question entirely for the jury, there was corroboration of the testimony of the accomplice Ross. Defendant fails in sustaining either of his two points urged in argument for the reversal of the judgment. The judgment is therefore affirmed.

Fitzgerald, C. J.

We Concur:

Talbot, J.

Norcross, J.

Filed January 4, 1906.

TOURIST EXCURSION PARTIES TO

THE EAST.

Over the Scenic Line of the World.

If you are going east and want to

save money, yet travel with pleasure

and comfort it will pay you to invest

our personally conducted tourist

excursions. The parties are in charge

of a Manager who accompanies the

cars through St. Louis, Chicago

and the Atlantic Coast and gives his

personal attention to the welfare of

each passenger in his charge. The

schedules are arranged so you pass

through the world-famed scenery on

the Denver and Rio Grande Railroad

by daylight. Open-top Observation

cars (something entirely new) are

free to all passengers. Let us know

where you are going and we will

be glad to give you full information

about your trip, the lowest rates of

fare and send you free of charge some

handsome illustrated books of travel.

W. J. SHOTWELL,

General Agent.

625 Market Street, San Francisco, Cal.

Cattle and Horses.

The City Marshal gives warning

that all loose stock found on the

streets from this time on will be

impounded. A strict attention to this

parties owning stock will make warn-

ing. Impounding fines will be impos-

ed in every case.

Wm. Kinney,

Marshal.

LADIES: I make from \$18 to \$30

per week and want all to have the

same opportunity. The work is very

pleasant and will pay you very hand-

somely for even your spare time. I

speak from experience as I have fre-

quently made \$5.00 in a single day.

This is no deception. I want no

money and will gladly send full par-

ticulars to all. Address,

MRS. W. W. MITCHELL,

Box 10, Portland Maine.

Notice to Hunters.

Notice is hereby given that any

person found hunting without permit

on the premises owned by Theodore

Winters, will be prosecuted. A li-

tered number of permits will be sold

at \$5 for the season or 50 cents for

one day.

A. C. WINTERS.

Take a look at the new ties that

are being shown at Platt's.

Wiard is closing out his \$20.00

stock at a sacrifice. This is an op-

portunity for Christmas shoppers.

Liberal Offer.

I beg to advise my patrons that the price of disc records (either Victor or Columbia) to take effect immediately, will be as follows until further notice:

Ten inch discs formerly 70 cents will be sold for 60 cents.

Seven inch records formerly 50c. now 25c. Take advantage of this offer.

C. W. FRIEND.

ORDINANCE NO. 112.

Or Ordinance for the Licensing of

Games and Gambling Devices in

Carson City.

The Board of Trustees of Carson

City do ordain:

Section 1. Each and every person,

firm, company, corporation, or asso-

ciation within the limits of Carson

City, who shall carry on as agent,

manager, owner or proprietor, any

game of faro, roulette, rondo, keno,

or any other game not prohibited by

the statutes of the State of Nevada,

or who shall carry on or operate any

nickle-in-the-slot-machine, or who

shall carry on or conduct any bank-

ing game played with cards, dice or

other device, whether the same be

played with money, checks, credit or

any other valuable thing or repre-

sentative of value, shall pay for and

obtain a city license to carry on such

game, and shall pay for each license

twenty-five dollars (\$25.00) per month

provided that when more than one

of said games are carried on in the

same room or apartment, whether

by the same or different owners, each

game so carried on shall be separately

licensed; and provided further,

that the license imposed by this Or-

dinance is for the revenue only, and

not for the purpose of prohibition,

suppression or regulation.

Section 2. The provisions of this

Ordinance shall apply to all time

on and after October 1, 1905.

Section 3. Ordinance Number 53

and all other ordinances or parts of

Ordinances in so far as they conflict

with the provisions of this Ordi-

nance are hereby repealed.

President of the Board of City Trus-

tees of Carson City, Nevada.

Attest:

H. B. Van Etten, Clerk.

OFFICIAL COUNT OF STATE

FUNDS.

STATE OF NEVADA.

County of Ormsby, s. s.

James G. Sweeney being duly sworn

say they are members of the

Board of Examiners of the State of

Nev., that on the 29th day of Nov '05

they, (after having ascertained from

the books of the State Controller the

amount of money that should be in

the Treasury) made an official exami-

nation and count of the money and

vouchers for money in the State Treas-

ury of Nevada and found the same

correct as follows:

Coin \$151,107 29

Paid coin vouchers not re-

turned to Controller 16,835 71

Total 167,943 00

State School Fund Securities.

Irredeemable Nevada State

School bond 380,000 00

Mass. State 3 per cent

bonds 537,000 00

Nevada State Bonds 253,700 00

Mass. State 3 1/2 per cent

bonds 312,000 00

United States Bonds 21